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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,085	09/26/2000	Dutt V. Vinjamoori	49202-22USPT	5712
7	7590 02/18/200			
ANDRE M. SZUWALSKI			EXAMINER	
JENKENS & GILCHRIST, P.C. 1445 ROSS AVENUE, SUITE 3200 DALLAS, TX 75202			FULLER, RODNEY EVAN	
			ART UNIT	PAPER NUMBER
			2851	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	09/670,085	VINJAMOORI ET AL.				
Office Action Summary	Examiner	Art Unit				
	Rodney E Fuller	2851				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for R ply						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM						
 THE MAILING DATE OF THIS COMMUNICATION Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a r If NO period for reply is specified above, the maximum statutory perion. Failure to reply within the set or extended period for reply will, by sta. Any reply received by the Office later than three months after the material earned patent term adjustment. See 37 CFR 1.704(b). 	N. 1.136(a). In no event, however, may a resepty within the statutory minimum of thirty od will apply and will expire SIX (6) MON tute, cause the application to become AB.	eply be timely filed (30) days will be considered timely. THS from the mailing date of this communication. ANDONED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on _2a) This action is FINAL.2b) ≥	——· This action is non-final.					
3) Since this application is in condition for allo		ters prosecution as to the marits is				
closed in accordance with the practice und Disposition of Claims						
4) Claim(s) 1-81 is/are pending in the applicat	ion.					
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>1-81</u> is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and	d/or election requirement.					
Application Papers						
9) The specification is objected to by the Examiner.						
10)⊠ The drawing(s) filed on <u>21 March 2001</u> is/are: a)⊠ accepted or b)□ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.						
If approved, corrected drawings are required in reply to this Office action.						
12) The oath or declaration is objected to by the Examiner.						
Priority under 35 U.S.C. §§ 119 and 120	sign priority under 35 U.S.C. 8	\$ 110(a) (d) or (f)				
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:						
	onts have been received					
 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 						
2. Certified copies of the priority docume3. Copies of the certified copies of the p						
application from the International * See the attached detailed Office action for a l	Bureau (PCT Rule 17.2(a)).	-				
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).						
a) The translation of the foreign language 15) Acknowledgment is made of a claim for dome						
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s	5) Notice of I	Summary (PTO-413) Paper No(s) nformal Patent Application (PTO-152)				

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2. Claims 1-7 and 10-81 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergqvist M et al., "Characterization of Honeysuckle (Lonicera caprifolium L.) Seed Oil Triacylglycerols by High Performance Liquid Chromatography and Light Scattering Detection," Phytochemical Analysis, vol.3, 1992, pp. 215-217.

Regarding claims 1, 10, 16-18, 24-26, 27, 28, 30, 31, 32, 35, 44-47, 50, 55, 56, 58, 59, 60, 64, 66-68, 70, 72, 73, 75, and 81, Bergqvist discloses an apparatus / method for "extracting oil from a seed using a solvent (column 2, 3rd paragraph, line 6); evaporating said solvent (column 2, 3rd paragraph, line 9) in a stream of gas to form oil particles; directing light into said stream of gas and said oil particles, thereby forming reflected light from the oil particles, detecting said reflected light; and determining said oil content based on said reflected light (column 3, 2nd paragraph, lines 12-13)."

Regarding claims 5-7, 52, 53, 57, 62, 69, 78 and 79, Bergqvist discloses that the solvent comprises CHCl₃:MeOH (column 2, 3rd paragraph, line 6) or acetonitrile (column 3, 2nd paragraph, lines 7-8).

Regarding claims 11, 54 and 80, Bergqvist discloses "wherein said stream of gas comprises nitrogen." (column 2, 3rd paragraph, line 10)

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Regarding claim 12, Bergqvist discloses "the step of introducing said solvent into said stream of gas a rate between 0.3 and 5 milliliters per minute." (column 3, 2nd paragraph, line 10)

Regarding claims 13, 50, 63, 65, 71, 74 and 76, a liquid chromatograph as employed by Bergqvist may inherently use a laser as the light source. (See Anderson, Jr., et al. – US2001/0001575).

Regarding claims 14, 48, 51 and 77, a liquid chromatograph as employed by Bergqvist may inherently use a silicon photodiode to detect the reflected light. (See Anderson, Jr., et al. – US2001/0001575).

Regarding claim 15, Bergqvist discloses wherein the system temperature is maintained. (column 3, 2nd paragraph, lines 11-12)

Regarding claims 27 and 29, Bergqvist discloses that the seeds are ground. (column 2, 3rd paragraph, line 8).

Regarding claims 44, 46, 61 and 70, Bergqvist discloses a nebulizer. (column 3, 2nd paragraph, line 14)

Claims 2-4, 19-23, 32-43 and 45 are directed to the intended use of the claimed apparatus / method. It has been held that a recitation with respect to the manner in which a claimed apparatus / method is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus / method satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the

manner in which the invention was made.

4. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergqvist

M et al., "Characterization of Honeysuckle (Lonicera caprifolium L.) Seed Oil Triacylglycerols

by High Performance Liquid Chromatography and Light Scattering Detection," Phytochemical

Analysis, vol.3, 1992, pp. 215-217.

Regarding claims 8 and 9, Bergqvist discloses the claimed invention except for

(claim 8) "wherein 0.5 to 50 ml of said solvent is use" and (claim 9) "wherein 1 to 3 ml

of said solvent is used." It would have been obvious to on having ordinary skill in the art

at the time the invention was made to use the claimed amount of solvent, since it has been

held that where the general conditions of a claim re disclosed in the prior art, discovering

the optimum or workable ranges involves only routine skill in the art. In re Aller, 105

USPQ 233.

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Udy (US 4,980,295) discloses a process for determining the oil content of seeds.

Anderson, Jr., et al. (US 2001/0001575) discloses a chromatography that utilizes a laser as the light source.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney Fuller whose telephone number is (703) 306-5641. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams, can be reached on (703) 308-2847.

Rodney Fuller

Primary Examiner

February 13, 2003